

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF ROBERT J. )	APPEAL NO. 06-A-2462
GILLIHAN JR. AND CATHERINE GILLIAHAN from )	FINAL DECISION
the decision of the Board of Equalization of Valley )	AND ORDER
County for tax year 2006. )	

**VACANT LAND APPEAL**

THIS MATTER came on for hearing November 29, 2006, in Cascade, Idaho, before Board Member Lyle R. Cobbs. Board Member David E. Kinghorn participated in this decision. Appellant Catherine Gillihan appeared for herself. Assessor Karen Campbell, Chief Deputy Assessor Deedee Gossi, and Appraiser Charles Pickens appeared for Respondent Valley County. This appeal is taken from decision of the Valley County Board of Equalization (BOE) denying the protest of the valuation for taxing purposes of property described as Parcel No. RP00078002033CA.

**The issue on appeal is the market value of vacant land.**

**The decision of the Valley County Board of Equalization is reversed.**

FINDINGS OF FACT

Total assessed value is \$120,870. Appellant requests the total assessment be reduced to \$87,000.

The subject property is a 20.56 acre portion of a larger 117.101 acre parcel. Subject is classified as rural subdivision land and is located in the Edwardsburg area near Big Creek, Idaho.

Appellant contended the 7.26 acre portion of subject assessment was excessive. The 7.26 acres is comprised of two separate meadows adjacent to a creek. The remaining 13.3 acres of subject land is located in the bottom of a valley and is below the high water mark. It was noted the creek running through this portion has been designated as a Class 1 waterway and thus protected under the Endangered Species Act.

Appellant said according to state and federal regulations, no septic system could be installed within 300 feet of the waterway on subject. Appellant claimed the two meadows were less than 300 feet wide and because they bordered the creek, were thus unbuildable. Appellant also stated that a potential buyer decided not to purchase subject on account of the septic system issue.

Respondent indicated the poorer 13.3 acres of subject were classified as a low and wet area. These acres were given a land grade of 1 and were assessed for \$47,850 after an adjustment of 50% was made for the sanitary restrictions on the property. The County grades land on a scale of 1 to 4, with 4 being the best. The remaining 7.26 acres of subject was more favorably classified as a land grade of 2 and were assessed for \$63,490.

Respondent provided three sales in subject area. These sales involved grade 1 properties and occurred between 1988 and 2001. Prices ranged from \$10,000 to \$120,000 for parcels sized between 1.9725 acres and 50.863 acres. Both parties acknowledged sales in the area were very limited.

Respondent provided two fairly recent sales, though noted they were both outside subject area. One property was 3.5 acres with a land grade of 2, and sold for \$18,000 in 2003. The other property was a 1.974 acre parcel with a land grade of 3 and sold for \$80,000 in 2005.

Respondent conceded that if legal documentation was provided indicating there was indeed nowhere on the entire subject 20.56 acres on which to build, the assessed value would likely be lower.

### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in

support of their respective positions, hereby enters the following.

In assessing property for tax purposes, Idaho takes a market value approach as defined by Idaho Code § 63-201(10):

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

Appellant argued that due to the waterway running through subject, no structures could be built on the land, and therefore the more favorable classification as rural subdivision was improper.

Respondent provided a few sales to support subject’s assessment and noted an adjustment was made to the poorer portion of the property that was deemed lo and wet.

The sales provided in this case appear to be too dissimilar to subject to provide a reliable basis for comparison. Appellant correctly noted that no septic system could be built within 300 feet of the waterway that traverses subject. As recognized by Respondent, such building restrictions would likely decrease subject’s value. The Board is convinced there are hindrances with the subject’s 7.26 acres which more closely resemble the poorer 13.3 acres. Accordingly, the Board finds the entire 20.56 acres in dispute should be valued at the poorer land grade. The decision of the Valley Board of Equalization is thus reversed.

#### FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Valley County Board of Equalization concerning the subject parcel be, and the same hereby is reversed, lowering the assessed value to \$87,000.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those

determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

DATED this 19th day of March , 2007.